IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA,1929

Crl.MC.No. 2767 of 2007()

CP.35/2007 of JUDL.MAGISTRATE OF FIRST CLASS-III, PUNALUR

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PETITIONER: 3RD ACCUSED

RAJEEV ALIAS AACHI, AGED 25 YEARS,
SON OF RAJU, RAJESH BHAVAN, MUTTAVILA,
VETTIKKAVALA VILLAGE, KOTTARAKKARA TALUK.

BY ADV. SRI.RAJESH VIJAYENDRAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.KAMAPPU.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 2767 OF 2007

Dated this the 5th day of September, 2007

ORDER

The petitioner faces indictment in a prosecution under the Kerala Abkari Act. The petitioner was not arrested in the course of investigation. Investigation is now complete. Final report has already been filed. The committal court has taken cognizance. The committal proceedings has been registered. The petitioner apprehends that when he appears before the learned Magistrate, his application for bail will not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. The petitioner is wary of a practice which is said to be prevailing in court by which the bail application will not be considered promptly and there will be insistence that the petitioner continues in custody at least for some days before his application was considered.

2. I find absolutely no merit in this apprehension. It is

for the petitioner to appear before the learned Magistrate and claim for regular bail. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. In **Sukumari v. State of Kerala** (2001 (1) KLT 22), this Court has explained that the application for bail must be considered on merits. Sufficient general directions on this aspect have already been issued in the decision reported in Alice George v. Deputy Superintendent of Police (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the specific observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself in the light of

the two decisions referred above.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge